

CORAM: BHARATI DANGRE, J.
DATED : 27th JUNE, 2022

P.C:-

1. The applicant is charge-sheeted in C.R.No.I-197 of 2021 registered with Bhiwandi City Police Station, District Thane, for the offences punishable under Sections 342, 376, 354(D), 354, 509 of the Indian Penal Code with Section 67(a) of the Information Technology Act, 2008. He came to be arrested in connection with the said C.R. on 19/06/2021 and, since then, he is incarcerated.

2. Learned counsel Mr.Punjabi would submit that the applicant is a 50 years' old person, who is a social worker and a former Corporator and he was Bhiwandi District City President of National Congress Party for last twelve years and, since, last two years, he is the Bhiwandi District City President of AIMIA political party. It is urged that he is a respectable person and has deep roots in the society. It is submitted that his arrest in the subject C.R. is a reason of political vendetta and his rivals made every attempt to tarnish his image and several FIRs were registered against him, in which he has been released on bail. Submitting that he is a permanent resident of Bhiwandi and is having deep roots in the society and he shall

not avoid facing the trial and also in the wake of the material contained in the charge-sheet, it is submitted he deserves his release on bail.

3. Heard learned counsel Mr.R.V.Govilkar for the complainant and learned A.P.P. Ms.Rutuja Ambekar for the State.

The learned counsel for the intervenor/complainant would focus upon the seriousness of the accusations and submit that material compiled in the charge-sheet is sufficient to secure his conviction for the offences with which he is charged and his conduct in the alleged act should be looked at from a different point of view, being that he claims himself to be a leader of public at large and, therefore, his involvement in such an act is deplorable.

4. With the assistance of the respective counsel, I have perused the charge-sheet placed on record alongwith the application.

The case of the prosecution is to the effect that the prosecutrix was working as Professor in Oswal College at Bhiwandi and was divorced by her husband in the month of May, 2021. She narrate that she is deeply involved into social

work and is popular in general public for the services rendered by her. Her credentials are set out in the complaint as she was associated with various social and political activities. She became Member of AIMIM, since, she was impressed by the ideology of Mr.Ossuddin Owesi and she used to be present in public meetings of Mr.Owesi.

5. She narrate that she became acquainted with the applicant, since he used to be one of the participants in the meetings and he attempted to contact her at late night, which she seriously objected to. It is alleged that he was appointed as President of AIMIM for Bhiwandi city and she complained to the General Secretary of the party that she will not work for the party, if the applicant is the President for Bhiwandi, as he was having an evil eye upon her and had made every attempt to establish physical relationship with her. Upon such conduct of the applicant, she left the party.

6. It is alleged by her that in the month of February, 2020, the applicant contacted her and informed her that a public meeting is likely to be held in Mumbai and asked her to prepare her speech, which she initially refused, but on being persuaded by her husband, she agreed to deliver her speech in the meeting dated 27/02/2020. On the pretext of the said

speech, she was called by the applicant to the office on 26/02/2020 in the evening hours and when she approached him, four to five workers of the party were also present. It is alleged by her that they were asked to leave the office and she was made to read the speech. He became intimate with her and locked the door of the office. She attempted to raise a cry for help, but her mouth was shut. It is then alleged that the applicant removed her clothes and inserted his finger in her private part . Somehow she pushed the applicant after wearing clothes, ran out of the office.

7. The complainant narrate that she reported the incident to her husband, but he restrained her from taking any legal action, apprehending that she would be defamed and he asked her to keep quiet and leave politics. She attempted to contact with the office bearers of the party, but their phones were found switched off. However, she did not lodge a complaint.

8. It is alleged that in the year 2020, the applicant forwarded certain objectionable video messages and reprimanded him. She, thereafter, obtained divorce from her husband and got herself involved in the social work. When she garnered the support of the public, she came to the police station and lodged the report.

9. Perusal of the complaint would reveal that about the incident dated 26/02/2020, she has lodged a report on 18/06/2021 and she alleged that she was sexually ravished and the act was committed by the applicant, without her consent and against her will.

The delay in lodging the complaint is not sufficiently explained, except for stating that she gathered her guts to report, since her colleagues started supporting her.

10. The material compiled in the charge-sheet refers to her additional statement where she specifically state that she formatted her mobile through one mobile proprietor and also sold her mobile to him. Resultantly, she do not have any objectionable messages, images or videos forwarded to her by the applicant.

11. The learned counsel for the applicant would invite my attention to the contradiction in the prosecution case, since the complainant has specifically stated in her complaint that immediately after the incident took place, she narrated it to her husband, who restrained her from taking any further action. However, her husband whose statement is recorded, deny that she had reported the incident to him and in fact, he categorically states that after divorce, she has not established

contact with him. As far as the person to whom she is alleged to have complained about the conduct of the applicant, his statement compiled in the charge-sheet is to the effect that on the date of the incident, the applicant was with him till the next morning as the meeting was scheduled and no such incident took place. The assistant of this person also states that the day on which the incident is alleged to have taken place, the applicant was present with him and he visited the stadium to look after the arrangement for the meeting and left within half an hour.

In any case, this is a matter of evidence and the prosecution will have to deal with the said inconsistencies.

However, at present it can be seen that the offence with which the applicant is charged, being Sections 342, 354(D) and 509 of the IPC, are bailable offences. As far as the offences under Sections 354 and 376 are concerned, since on completion of investigation, the material is compiled in the charge-sheet, the detention of the applicant in the present C.R. is unnecessary. As far as the accusations of rape are concerned, the medical report compiled in the charge-sheet does not give any indication of sexual abuse, since the complaint is filed after lapse of considerable time. However,

the prosecutrix cannot be disbelieved only on the ground that there is no medical evidence. The applicant will have to face the charges based on the evidence brought during the trial.

However, in the given circumstances, since the prosecution has not expressed any apprehension that the applicant will not be available to face the trial, he cannot be further detained. As far as the antecedents of the applicant are concerned, the learned counsel has admitted that he has been arraigned as accused in various cases, since he is a political figure. Mere registration of the offences would, therefore, no ground to deny him his liberty. Hence, the following order.

: ORDER :

- (a) Application is allowed.
- (b) Applicant -Mohd.Khalid Mukhtar Ahmed Shaikh @ Khalid Guddu shall be released on bail in connection with C.R.No.I-197 of 2021 registered at Bhiwandi City Police Station, Bhiwandi on furnishing P.R.Bond to the extent of Rs.50,000/- with one or two sureties of the like amount.
- (c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person

acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer. The Applicant should not tamper with evidence.

(d) The Applicant shall attend the trial on regular basis, unless specifically exempted.

12. In view of the disposal of the application, interim application does not survive and stands disposed off.

(SMT. BHARATI DANGRE, J.)